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NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional) SEEK-001CON
Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	In re Application of BERG, ELLEN L.	
	Application Number 10/716,349	Filed November 17, 2003
	For FUNCTION HOMOLOGY SCREENING	
	Art Unit 1631	Examiner Skowronek, Karlheinz R

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) \$ _____

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. **50-0815**. I have enclosed a duplicate copy of this sheet.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

☒ Please see the attached statement.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor. _____
/Paula A. Borden, Reg. No. 42,344/
Signature

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96) _____
Paula A. Borden, Ph.D.
Typed or printed name

☒ attorney or agent of record.
Registration number **42,344** _____
(650) 327-3400
Telephone number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____
12/29/2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Electronically Filed

STATEMENT SUBMITTED WITH NOTICE OF APPEAL Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket No.	SEEK-001CON
	Confirmation No.	7039
	First Named Inventor	Ellen L. Berg
	Application Number	10/716,349
	Filing Date	November 17, 2003
	Group Art Unit	1631
	Examiner Name	Skowronek, Karlheinz R
	Title:	"FUNCTION HOMOLOGY SCREENING"

Sir:

Applicants respectfully submit that no fees are due for this notice of appeal in view of the reopening of prosecution by the Examiner, as noted in the Office Action of 09/24/2008, as follows:

DETAILED ACTION

In view of the Appeal Brief filed on 07 July 2008, PROSECUTION IS HEREBY REOPENED. A new grounds is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

A new grounds of rejection are being made under 35 USC 103(a) and under 35 USC 112, Second Paragraph.

In the event that appeal fees have increased since the previously paid notice of appeal, the Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number SEEK-001CON.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: December 29, 2008

By: /Paula A. Borden, Reg. No. 42,344/
Paula A. Borden, Ph.D.
Registration No. 42,344

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, California 94303
Telephone: (650) 327-3400
Facsimile: (650) 327-3231